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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/643,340

08/19/2003

Nathan Lechman

033823-001

3780

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7590

03/11/2008

MICHELIN NORTH AMERICA, INC.

INTELLECTUAL PROPERTY DEPARTMENT

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EXAMINER

PARKER, BRANDI P

ART UNIT

PAPER NUMBER

4137

MAIL DATE

DELIVERY MODE

03/11/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary****Application No.**

10/643,340

**Applicant(s)**

LEEHRMAN, NATHAN

**Examiner**

BRANDI PARKER

**Art Unit**

4137

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. Claims 1-15 are pending in this Office Action.
2. This Office Action is given Paper No. 20080225 for reference purposes only.

#### ***Claim Objections***

3. **Claim 2** is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 1 is directed towards a method for improving business performance. In order for claim 1 to be functional, implementing the claimed method must be inherently present. Therefore, claim 2 does not further limit the scope of the previous claim.

4. **Claim 9** objected to for being dependent on an objected claim.

#### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. **Claim 15** is rejected as being directed to non-statutory subject matter. A business process map without any functional language does not fall within one of the required statutory classes of subject matter.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3 and 10-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Hack et al (US 2003/0187676).

6. With respect to **claim 15**, Hack teaches a business process map, comprising:
  - a. one or more cost categories (paragraph 0014, 0032);
  - b. one or more business processes, wherein each current business process is categorized in each of the one or more cost categories that are cost dependent on the process (Id.); and
  - c. one or more key performance indicators each associated with one or more of the business processes, said key performance indicators measuring process performance (paragraph 0060).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 and 9-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hack et al (US 2003/0187676).

7. With respect to **claim 1 and 12**, Hack teaches

- d. documenting one or more current business processes in an initial process map having one or more cost categories, wherein each current business process is categorized in each of the one or more cost categories that are cost dependent on the process (paragraph 0014, 0032);
- e. comparing each of one or more of the current business processes with known business processes to determine whether one or more cost effective business processes are available for one or more respective current business processes (paragraph 0043); and
- f. creating a process map comprising a set of business processes including one or more recommended business processes by substituting, in the initial process map, one or more available more cost effective business processes for one or more respective current business processes (paragraph 0040-0044, 0049, 0057, 0062).

g. associating one or more corresponding key performance indicators with each recommended business process in the recommended process map, said key performance indicators measuring process performance (paragraph 0060).

8. Hack does not specifically recite a recommended process map. However, Hack does disclose collaboration amongst business entities (paragraph 0004, 0029, 0031, 0042). Therefore, a predictable result of Hack is for a user to communicate with market participants in order to understand their specific needs (i.e. recommendation) (paragraph 0042).

9. Regarding **claim 2**, Hack teaches implementing the recommended business processes and is rejected under the same rationale as claim 1. In order for claim 1 to be functional, implementing the claimed method must be inherently present.

10. As to **claim 3**, Hack teaches establishing one or more corresponding key performance indicators in association with each recommended business process, said key performance indicators measuring process performance (paragraph 0060).

11. Regarding **claims 10-11 and 13-14**, Hack teaches the methods of claims 1 and 12 including cost categories and business processes (paragraph 0014, 0032). The different types of costs and processes encompass the interchangeable components that claim 13 and 14 recite. The additional language cited in claims 13 and 14 suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation (MPEP 2106 II C).

Claims 4-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hack et al (US 2003/0187676) as applied to claims above, and further in view of Swan et al (US 2004/0030590).

12. With respect to **claim 4**, Hack teaches the method of claim 3. However, Hack does not explicitly teach estimating, by cost category, costs associated with each business process and determining a cost budget per cost category according to the estimated costs. Swan teaches estimating, by cost category, costs associated with each business process and determining a cost budget per cost category according to the estimated costs (paragraph 0049, 0066). It would have been obvious to one having ordinary skill in the art to modify the methods in Hack with the disclosure in Swan because managing projects and business processes can improve business performance (Hack, paragraph 0042).

13. Regarding **claim 5**, Swan teaches measuring the actual costs of the business processes in operation; and comparing the actual costs with the estimated costs to determine whether one or more of the cost budgets are exceeded (paragraph 0086).

14. As to **claim 6**, Swan teaches when a cost category's budget is exceeded, determining, based on associated key performance indicators, whether any business processes in the category are performing outside an acceptable range (paragraph 0077). Correcting any business process performing outside the acceptable range is

inherently present within identifying processes performing outside the acceptable range and does not further limit the scope of the claim.

15. With respect to **claim 7**, Swan teaches identifying a business process to target for replacement with a new candidate process; estimating, using the recommended process map, an overall cost effect of replacing the targeted business process with the new candidate process; and replacing the business process with the new candidate process when the overall cost effect indicates a reduced cost (paragraph 0062, 0063). Swan provides the ability to combine, edit or copy existing processes to the current process list which encompasses the capability to replace the business process.

16. Regarding **claim 8**, Hack teaches method of claim 7, further comprising establishing one or more new corresponding key performance indicators for the new candidate process (paragraph 0060). Hack does not teach determining a new cost budget for the cost category of the new candidate process. However, Swan teaches determining a new cost budget for the cost category of the new candidate process (paragraph 0008, 0009.)

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hack et al (US 2003/0187676) as applied to claims above, and further in view of Roberts et al (US 2004/0167789).

17. As to **claim 9**, Hack teaches the method of claim 2. However Hack does not explicitly teach implementing the recommended business processes by categorizing



the recommended business processes into a plurality of cost savings categories according to potential cost savings and implementing those business processes in a category providing the most cost savings first. However Roberts teaches implementing the recommended business processes by categorizing the recommended business processes into a plurality of cost savings categories according to potential cost savings and implementing those business processes in a category providing the most cost savings first (paragraph 0062 and 0082). It would have been obvious to one having ordinary skill in the art to modify Hack with the disclosure in Roberts because cost analysis and reduction to cost savings can improve business performance (Hack, paragraph 0042).

### ***Conclusion***

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure Flores et al (US 5734837), Fera et al (US 7020621), Wiecha (5870,717).
19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRANDI PARKER whose telephone number is (571)272-9796. The examiner can normally be reached on Mon-Thurs. 8-4pm.
20. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Calvin Hewitt can be reached on (571) 272-6709. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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21. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Calvin L Hewitt II/

Supervisory Patent Examiner, Art Unit 4137